

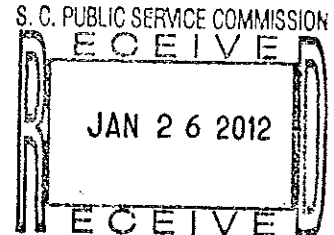
David M. Stumbo



Respond to: ■ Greenwood Office:  
1629 Bypass 72 N.E.  
Greenwood, SC 29649  
(864)388-9100  
(864)388-9104 - Facsimile

January 25, 2012

Jocelyn G. Boyd, Esquire  
Chief Clerk & Administrator  
Public Service Commission of South Carolina  
101 Executive Center Dr., Suite 100  
Columbia, SC 29210



**RE: BHC Trucking v. Duke Energy Carolinas, LLC**  
**Docket No. 2011-482-E**

Dear Ms. Boyd:

Please find enclosed our Response To Defendant's Motion For Summary Judgment And Memorandum In Support in the above referenced matter.

Please return a filed copy in the envelope provided. *JS*

Respectfully Submitted,

McCRAVY, NEWLON & STURKIE LAW FIRM, P.A.

A handwritten signature in dark ink, appearing to read "D.M. Stumbo", written over a horizontal line.

David M. Stumbo, Esq.

*DMS/jcf*  
*Enclosures*

cc: *BHC Trucking*  
*Hearing Examiner Randall Dong*  
*Shannon Bowyer Hudson, -SC ORS*  
*Ronnie D. Shealy - Duke Energy*

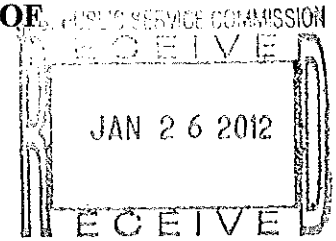
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BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2011-482-E



In re:	)	
	)	
BHC Trucking,	)	<b>RESPONSE TO DEFENDANT'S</b>
Complainant,	)	<b>MOTION FOR SUMMARY</b>
	)	<b>JUDGMENT AND</b>
v.	)	<b>MEMORANDUM IN SUPPORT</b>
	)	
Duke Energy Carolinas, LLC,	)	
Respondent.	)	


TO: THE PUBLIC SERVICE COMMISSION, BONNIE SHEALY, ATTORNEY FOR  
RESPONDENT AND SHANNON BOWYER HUDSON, ATTORNEY FOR THE  
OFFICE OF REGULATORY STAFF:

YOU ARE HEREBY NOTIFIED THAT:

JOHN R. MCCRAVY, III, and DAVID M. STUMBO, of THE MCCRAVY,  
NEWLON & STURKIE LAW FIRM, P.A., counsel for the Complainant, hereby oppose  
Respondent's Motion for Summary Judgment. First, Defendant's motion is not proper  
because there is no provision for a motion for Summary Judgment in the S.C.  
Administrative Procedures Act which applies to these proceedings. S.C. Code of Laws  
Sections 1-23-10, et seq. and 58-3-5, et seq. Second, discovery of evidence is not  
complete in this matter and Complainant has not had the opportunity to fully depose  
witnesses that are material to the case, including but not limited to Kenneth Davis and  
William Hunter. At this stage of the proceedings, there is not sufficient information in  
the record for the Commission to make a decision on the existence of a genuine issue of  
material fact with the evidence being viewed in the light most favorable to Complainant.  
*Moore v. Barony House Restaurant*, 382 S.C. 647, 647 S.E.2d 500 (Ct. App. 2009).

Accordingly, Complainant requests that the Public Service Commission dismiss  
Respondent's Motion for Summary Judgment.

McCRAVY, NEWLON & STURKIE LAW FIRM, P.A.

BY:   
David M. Stumbo

Attorneys for the Complainant  
1629 Bypass 72 NE  
Greenwood, SC 29649  
(864) 388-9100

Greenwood, S.C.  
January 24, 2012  
25

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**  
**DOCKET NO. 2011-482-E**

In re: )  
)  
BHC Trucking, )  
Complainant, )  
)  
v. )  
)  
Duke Energy Carolinas, LLC, )  
Respondent. )

**CERTIFICATE OF SERVICE**

The undersigned of McCRAVY NEWLON & STURKIE LAW FIRM, P.A., Attorney for the Claimant, hereby certifies that on January 25, 2012, she served a copy of the pleadings specified below by mailing the same in an envelope with sufficient postage attached via first class mail by depositing the same in the U.S. Mail, Greenwood, South Carolina, to the address referenced below.

**PLEADINGS:**

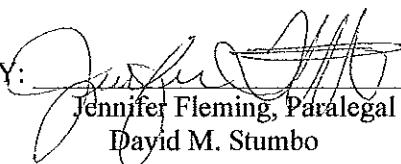
1. RESPONSE TO DEFENDANT'S  
MOTION FOR SUMMARY  
JUDGMENT
2. CERTIFICATE OF SERVICE  
BY MAIL

**SERVED:**

Shannon Bowyer Hudson  
SC Office of Regulatory Staff  
1401 Main St., Suite 900  
Columbia, SC 29201

Bonnie D. Shealy  
Robinson McFadden & Moore  
P.O. Box 944  
Columbia, SC 29202

McCRAVY NEWLON & STURKIE LAW FIRM, P.A.

BY:   
Jennifer Fleming, Paralegal to  
David M. Stumbo

Attorney for Claimant  
1629 Bypass 72 NE  
Greenwood, SC 29649  
(864) 388-9100

Greenwood, S.C.  
January 25, 2012